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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,191	02/19/2002	Gernot Busch	HBC 244-KFM 16433US	5426

7590 01/08/2004  
MILDE, HOFFBERG & MACKLIN, LLP  
SUITE 460  
10 BANK STREET  
WHITE PLAINS, NY 10606

EXAMINER

CONLEY, SEAN E

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/078,191	BUSCH, GERNOT <span style="float: right;">ek</span>	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sean E Conley	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/19/2002, 3/29/2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/19/2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some    \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 6-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Prather (U.S. Pat. 6,443,434 B1).

Prather discloses a forced-air scent dispenser. The scent dispenser includes a housing (10) with an air intake (12) and an outlet (14). Inside the housing is a circuit board (24) which includes circuitry for a timer circuit. Attached to the circuit board is a holder (20) for a container (18) of liquid scent. Holder (20) is an open-topped receptacle having shape and dimensions suited to holding a small bottle of liquid scent. A heating element (25) is located on the circuit board (24) underneath the scent container (18). Alternatively, the heating element can be connected to a wire and inserted into the liquid scent through the open top of the container (18). A switch (22) activates an electronic circuit which includes a timer. The timer causes the circuitry to cycle between "on" and "off" conditions. The housing further includes a fan (16) which dispenses air through outlet (14). Fan (16) is a compact fan which draws a low current, but effectively moves

a stream of air through the dispenser housing. Inside the housing incoming air is mixed with vapor from the heated scent, so that the molecules of scent are blown out the exhaust with the airflow. A rechargeable battery (28) is mounted within the housing to provide current for the timer, heating element and fan (see figures 1-2 and col. 2, line 19 to col. 3, line 32).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prather as applied to claim 1 above.

Prather discloses the claimed invention except for a dispenser made of glass. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the fragrance dispenser out of glass, since it has been held to be

within the general skill of the worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USQ 416.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prather in view of Bett et al. (U.S. Pat. 5,313,821).

Prather does not teach a funnel-shaped tube connected to the outlet aperture (14).

Bett et al. discloses a device for evaluation of an aroma. The device generates an aroma laden carrier gas and directs the gas to the nose of the user through gas directing means (22) which is a funnel shaped tube connected to outlet aperture (8). The gas directing means is further referred to as a nose cup which substantially conforms to the upper lip and nose area of user for directing all of the aroma-laden carrier gas to the nostril area of the user (see figure 2 and col. 57-65).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Prather and include a funnel shaped tube attached to the outlet aperture, in order to direct the scented air directly to a user's nose and evaluate the strength of the scent before releasing it to the surrounding atmosphere as taught by the scent dispensing invention of Bett et al.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prather in view of Bett et al. as applied to claim 3 above, and further in view of FR 145834A.

Prather and Bett et al. do not teach a funnel-shaped tube that is coated with Teflon.

FR 1454834A teaches a polytetrafluoroethylene (also known as Teflon) composition for coating utensils. Teflon is well known in the art as a non-stick, non-corrosive coating used in many applications. FR 1454834A teaches that Teflon coatings enable items to be easily cleaned because of the non-stick characteristics and as a result the items are maintained in a hygienic condition (see translated abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to coat the funnel-shaped tube with Teflon in order to more easily clean the funnel after each use and maintain a hygienic state as taught by FR 1454834A.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prather as applied to claim 19 above and further in view of Gibson (U.S. Pat. 5,114,625).

Prather does not disclose a fan connected to a power source via an electrical connector line and via a transformer.

Gibson teaches a fragrance dispenser for evaporating an aromatic liquid. The dispenser includes a fan (64) for dispensing air enhanced with fragrance into the surrounding atmosphere (see col. 5, lines 20-40). The fragrance dispenser (10) can be adapted for use with electrical current compatible with the fan (64). A transformer with cord used for reducing household current to 6 or 12 volts D.C. needed to operate fan (64) would be located at the outlet or the transformer may be built inside the fragrance

dispenser and plugged directly into the wall receptacle. The system includes a low voltage plug (114) on the support wall (92) which engages an enclosed jack (116) supported on the side wall (14). These types of connectors are commonly found in conventional consumer electronic products (see col. 7, lines 17-30).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Prather and replace the power supply (rechargeable battery) with an alternative means taught by Gibson (outlet plug, cord and transformer for receiving electrical power from a conventional household outlet and converting the power to a low voltage) in order to power the fan and circuit board of the fragrance dispenser.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. 5,522,253 to Knight

U.S. Pat. 3,902,851 to Dravnieks

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Conley, whose telephone number is (571) 272-1273. The examiner can normally be reached on Monday-Friday 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Warden, can be reached at (703) 308-2920. The Unofficial fax

phone number for this group is (703) 305-7719. The Official fax phone number for this Group is (703) 872-9310. The direct fax number to the (571) 273-1273.

When filing a FAX in Technology Center 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite the processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [robert.warden@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist, whose telephone number is (703) 308-0661.

Sean E. Conley  
Patent Examiner  
AU 1744

SEC *AC*  
December 23, 2003

*Robert J. Warden, Sr.*  
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